



UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE THE APPLICATION OF:

Yoshino

Grp. Art. Unit: 3745

Application No: 10/714171

Date: June 7, 2006

Filed: November 14, 2003

Examiner: Frank Lopez

POWER SYSTEM AND WORK  
MACHINE USING SAME

Atty Docket: 03-227

RESPONSE TO OFFICE ACTION

In response to the Office Action dated March 13, 2006, please consider the following remarks and the attached Terminal Disclaimer. Reconsideration of the present application is respectfully requested.

Claims 1, 8 and 15 stand rejected under the judicially created doctrine of double patenting over claims 3, 13 and 19 of co-owned U.S. Patent Number 6,945,039, which was filed on the same date as the present application. In addition, claims 2-4, 6, 7, 9, 11-14, 16 and 17 stand rejected under the judicially created doctrine of obvious-type double patenting over the same patent in view of Japan 2002-195218. In response, Applicants have included a terminal disclaimer. Therefore, Applicant respectfully requests that the outstanding double patenting rejections be withdrawn.

Claims 1-17 stand rejected under 35 USC §103 over the Applicants own work disclosed in Japan 2002-195218 in view of Lisniansky. In particular, the office action holds that one having ordinary skill in the art would have found it obvious to replace the constant displacement motor disclosed of the Applicant's own work disclosed in Japan 2002-195218 with a variable displacement motor, as taught by Lisniansky, "for the purpose of compensating for variations in pressure across the throttle valve". Applicant respectfully disagrees since the grounds for combining the teachings of the cited references is completely different from the problems addressed by Applicant's claimed invention. Thus, on one hand, Lisniansky teaches the use of a variable displacement motor in order to regulate a pressure differential across a throttle valve,